

SCHULTZ & ASSOCIATES LLP

Attorneys at Law

A Registered Limited Liability Partnership

640 Cepi Drive, Suite A

Chesterfield, Missouri 63005-1221

ROBERT SCHULTZ

Admitted in Missouri

Licensed U.S. Patent & Trademark Office

rschultz@sl-lawyers.com

EPA Region 5 Records Ctr.



367312

Telephone (636) 537-4645

(888) 537-4645

Facsimile: (636) 537-2599

www.sl-lawyers.com

December 8, 2009

United States Environmental Protection Agency
Attn: Evette Jones, Program Manager
77 West Jackson Boulevard (SR-6J)
Chicago, Illinois 60604

Sent via e-mail (jones.evette@epa.gov)

Dear Ms. Jones:

I represent the Rogers Cartage Company and I am writing in response to the General Notice Letter for the ConocoPhillips Property in Cahokia, Illinois.

Last week my client and I met with Leah Evison, EPA Remedial Project Manager, Region 5, Superfund Division, and Tom Martin, EPA Associate Regional Counsel, Region 5, about this matter.

Rogers Cartage Company believes it is not legally liable for the contamination of Conoco's tank farm property for the following independent reasons:

A. Res judicata and collateral estoppel bar the Government from raising or reraising the same allegations and claims which were previously asserted against Rogers Cartage in the case of USA v. Rogers Cartage Company et al., United States District Court for the Southern District of Illinois Case No. 3:99-cv-00063 in which the District Court entered judgment for Rogers Cartage Company on November 20, 2003;

B. The CERCLA claim is barred because Rogers Cartage Company transported product and not waste;

C. The CERCLA claim is barred by the statute of limitations (whether three years or six) since EPA, IEPA, and Conoco have been studying the Conoco Property and IEPA and Conoco have been engaged in a cleanup all beginning many years ago; and,

D. The CERCLA claim is barred because IEPA is administering a clean up of the Conoco property and IEPA has not relinquished authority nor separated out the Conoco property at issue in this case.

SCHULTZ & LITTLE, L.L.P.

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In addition to the foregoing legal defenses, Rogers Cartage has no choice but to deny liability for the contamination of the Conoco Site at issue based on lack of evidence. The EPA PRP notice and attached documents, including the administrative consent order which Rogers Cartage is being asked to sign, recite conclusions and allegations based upon information and belief, but no evidence has been provided in support of those allegations. As we discussed in our meeting last week, my client first's connection to Rogers Cartage dates to October 1998, some thirty years following the activities allegedly engaged in by Rogers on which the claims against it are based.

My client has learned that Conoco Phillips and the EPA and IEPA have been investigating and testing the Conoco Site since at least 2004, however, my client was not aware of the activity at the Conoco Site until approximately one year ago. To date, Conoco Phillips has not shared all of the investigative and test reports that it has commissioned and obtained regarding the Conoco Site, nor has Conoco Phillips given Rogers an opportunity to discuss the reports and the underlying scope of work instructions and basis for the reports with the authors.

In addition, my client has learned that activity was undertaken which includes alteration of the Conoco Site, but no information regarding who conducted the alteration, when it took place nor the source of the materials deposited at the Conoco Site have been made available to Rogers Cartage.

We appreciate the EPA providing us with copies of materials from its file. In reviewing the materials, however, we find that the only information in the EPA file regarding Rogers Cartage is information derived from reports commissioned by Conoco Phillips and then provided to the EPA. It is noteworthy that the EPA file does not contain complete copies of the Conoco Phillips reports nor the information referenced in those reports.

Finally, we were surprised at the short list of PRPs attached to the letter given the EPA's obligation to identify and notify all PRPs. We believe it is commonly known that Pharmacia and Solutia were located and operated in the area of the Conoco Site and are known generators of PCB materials. Pharmacia and Solutia (successors to the old Monsanto Corporation) have alleged that they, as well as Big River Zinc, Petrolite, Cerro Copper, Ethyl, Union Carbide, DuPont, Shell, Standard, Union 76, Armstrong Cork, Dial Corporation, Reagent Chemical, Vulcan Chemical, and Huntsman Chemical are all PRPs for the contamination of the Conoco Site as generators and arrangers of transport and disposal of PCBs on the Conoco Site. Rogers Cartage believes Pharmacia, Solutia and the other listed companies are all PRPs for the contamination of the Conoco Site and Rogers Cartage respectfully requests that these parties be added to the list of PRP's and notice sent to them.

In spite of the legal defenses listed above, the lack of factual information provided to us, and in spite of the existence of additional PRPs not named by the Government, Rogers Cartage is

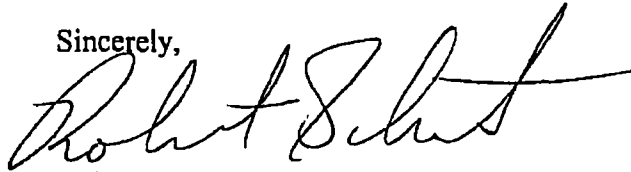
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will ing to continue negotiations with the Government and Conoco, However, Rogers Cartage is a small trucking company currently losing money without the financial ability to bear the costs of financing the removal action (roughly estimated at roughly \$1.5 million dollars by EPA at our meeting and 3 million dollars by Conoco). Rogers has and will continue to pursue coverage with its insurers, but it has been difficult to develop information given my client's recent connection to Rogers Cartage, relative to the passage of time since the alleged activity took place. We will keep the government apprised of coverage information as it becomes available.

For the foregoing reasons, Rogers Cartage respectfully states that it cannot agree to enter into the administrative order of consent or to carrying out the removal action.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Schultz", with a stylized, cursive script.

Robert Schultz

RS/lc

cc: Thomas Martin at martin.thomas@epa.gov
Leah Evison, Ph.D at evison.leah@epa.gov